

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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:
SANDOZ, : 17-CV-05447 (VSB)
:
Plaintiff, : 500 Pearl Street
: New York, New York
v. :
:
DOE, et al., : April 17, 2019
:
Defendants. :
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TRANSCRIPT OF CIVIL CAUSE FOR TELEPHONIC CONFERENCE
BEFORE THE HONORABLE SARAH NETBURN
UNITED STATES MAGISTRATE JUDGE

APPEARANCES:

The Plaintiff: MARTIN SANDOZ, *Pro Se*
DIN No. 16-A-4310
Clinton Correctional Facility
PO Box 2000
Dannemora, New York 12929

For the Defendants: ADRIA JASMINE BONILLAS, ESQ.
New York City Law Department
Office of the Corporation Counsel
100 Church Street
New York, New York 10007

Court Transcriber: RUTH ANN HAGER, C.E.T.**D-641
TypeWrite Word Processing Service
211 N. Milton Road
Saratoga Springs, New York 12866

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transcript produced by transcription service

1 THE COURT: Good morning. This is Judge Netburn.
2 Who do we have on the phone?

3 MS. BONILLAS: Good morning, Your Honor. Adria
4 Bonillas, counsel for the City of New York.

5 THE COURT: And Mr. Sandoz, are you there?

6 MR. SANDOZ: Si.

7 THE COURT: Can you understand what I'm saying?

8 MR. SANDOZ: (Responds in Spanish.)

9 THE COURT: How are you able to prosecute this case?
10 How are you able to bring your claims?

11 MR. SANDOZ: I don't speak English. I can't
12 understand too much.

13 THE COURT: Okay. Is somebody helping you with your
14 case?

15 MR. SANDOZ: No, not right now.

16 THE COURT: Okay.

17 MS. BONILLAS: Sorry, Your Honor, if I may, I do
18 believe that Mr. Sandoz has indicated during his deposition and
19 in a portion of the discovery responses he provided that there
20 appears to be a law clerk in the correctional facility that
21 works at the law library who has been assisting Mr. Sandoz with
22 discovery and with his claim generally.

23 THE COURT: Okay. Well, let's be brief because I
24 want to make sure he understands what's happening. Can you
25 just tell me, Ms. Bonillas, what it is that you believe is

1 outstanding?

2 MS. BONILLAS: Yes, Your Honor. So he -- Mr. Sandoz
3 provided written responses to our interrogatory requests, but
4 not for the request for document production. And based on his
5 statement at the deposition and his interrogatory responses we
6 believe that he may have copied the relevant documents that we
7 don't yet have.

8 THE COURT: What are the documents?

9 MS. BONILLAS: The first one would be a grievance.
10 Mr. Sandoz appeared to indicate at the deposition that he had a
11 copy of a grievance or some sort of complaint that he filed in
12 regards to this incident. I have checked with Rikers Island
13 and we have no indication that that was filed. So if he does
14 have a copy I think that that would be very relevant to
15 provide. And if he does not, then providing some sort of
16 response indicating such would also provide some clarification.

17 The second one -- the second document is that
18 Mr. Sandoz is claiming that he suffered emotional damages and
19 that he has had mental treatment due to -- as a result of this
20 incident. We requested a release for medical records,
21 including mental health treatment prior to this incident, but
22 we don't have a release yet from him for that. And the third
23 one is that Mr. Sandoz indicated in his interrogatory responses
24 that he suffered economic damages because he was denied the
25 ability to work at Rikers Island as a result of this incident.

1 Again, I'm checking with my client but as of yet I do not have
2 any indication that those documents exists.

3 So to the extent that Mr. Sandoz has some sort of
4 document that says that he applied to work at Rikers or even
5 that he was denied the ability to work at Rikers, if he has
6 possession of those that would be very helpful to have. It
7 would narrow the scope of discovery that we're now trying to
8 explore based on his responses.

9 THE COURT: Okay. Mr. Sandoz.

10 MR. SANDOZ: Uh-huh.

11 THE COURT: I'm going to issue an order. I will
12 write it down and so you can show it to somebody to translate
13 for you, okay?

14 MR. SANDOZ: All right. Thank you.

15 THE COURT: Okay. What the lawyer is asking for are
16 documents that you have or that she thinks you have. And so in
17 this order I'm going to direct you to turn over those
18 documents, if you have them, okay?

19 MR. SANDOZ: Okay.

20 THE COURT: And if you don't then you can't use them
21 in this case.

22 MR. SANDOZ: Okay.

23 THE COURT: Okay. So this is your last chance if you
24 have these documents. Do you understand that?

25 MR. SANDOZ: Yeah.

1 THE COURT: Okay. Ms. Bonillas, the second category
2 was for mental treatment that he received prior to coming to
3 Rikers. Is that what you're asking for?

4 MS. BONILLAS: Yes, Your Honor. We typically -- a
5 release typically is for mental health treatment or medical
6 records from the five years prior to the incident, so that's
7 what the release would be. So if he had treatment before he
8 was at Rikers Island through some medical provider, we would
9 need a release from that provider in order to have access to
10 those records.

11 THE COURT: This is mental health records you're
12 asking for?

13 MS. BONILLAS: We have -- we also asked for
14 physical -- medical -- or excused me, medical records related
15 to any physical treatment that he had, but I think in light of
16 the fact that we do have a substantial number of Rikers medical
17 records for any physical injuries, I think we can forego that
18 release.

19 So, yes, to answer your question, it's just for
20 mental health.

21 THE COURT: Okay. Mr. Sandoz?

22 MR. SANDOZ: Yes.

23 THE COURT: Did you ever see a doctor or any
24 provider -- any person before you went to Rikers to talk about
25 your feelings or emotions?

1 MR. SANDOZ: Before, you said?

2 THE COURT: Before you went to Rikers --

3 MR. SANDOZ: Yeah.

4 THE COURT: -- did you ever go to a doctor for care
5 for your mental health?

6 MR. SANDOZ: Nah.

7 MS. BONILLAS: Your Honor, he indicated at his
8 deposition that he did receive mental health treatment prior to
9 going to Rikers so that's where our basis is coming from.

10 THE COURT: Did he tell you where?

11 MS. BONILLAS: No, he did not.

12 THE COURT: Okay. Sir, are you --

13 MR. SANDOZ: Ah.

14 THE COURT: The question I'm asking is whether you
15 went to any doctor or counsel or social worker or anyone to get
16 help dealing with your emotions and your mental health.

17 MR. SANDOZ: You're saying mental health?

18 THE COURT: Yes.

19 MR. SANDOZ: Yeah, yeah.

20 THE COURT: Do you know who that was?

21 MR. SANDOZ: Yeah, yeah, in Brooklyn.

22 THE COURT: In Brooklyn?

23 MR. SANDOZ: Yeah.

24 THE COURT: Do you remember the name of that person
25 or that company?

1 MR. SANDOZ: Nah, nah, [indiscernible] the hospital,
2 but I don't know name.

3 THE COURT: Is that Brooklyn Hospital or a hospital
4 in Brooklyn?

5 MR. SANDOZ: The hospital in Brooklyn.

6 THE COURT: Do you know the name of the hospital?

7 MR. SANDOZ: Nah.

8 THE COURT: Okay. Well, Ms. Bonillas, I don't think
9 we're going to get a release.

10 MS. BONILLAS: Okay. I understand.

11 THE COURT: So you can do with the fact that he went
12 with -- you know, however you think is appropriate.

13 MS. BONILLAS: Okay.

14 THE COURT: Okay. Mr. Sandoz.

15 MR. SANDOZ: Uh-huh.

16 THE COURT: I'm going to issue an order today. It's
17 going to ask you for two types of documents.

18 MR. SANDOZ: All right.

19 THE COURT: The first is any documents that you
20 filled out at Rikers involving what happened to you, the
21 attack, okay?

22 MR. SANDOZ: All right.

23 THE COURT: So if you filed any complaints or any
24 grievances with the correction officers, you need to turn that
25 over.

1 MR. SANDOZ: All right.

2 THE COURT: Did you do that?

3 MR. SANDOZ: Yeah.

4 THE COURT: Do you have a copy of that in your files?

5 MR. SANDOZ: I've got -- I can find it. The
6 grievance [indiscernible] I'm going to -- I move [ph.] my
7 stuff.

8 THE COURT: Okay. Look through your stuff and see if
9 you can find it.

10 MR. SANDOZ: All right.

11 THE COURT: Okay. And then you need to mail a copy
12 to the lawyer.

13 MR. SANDOZ: All right.

14 THE COURT: And then the other category of documents
15 I understand that you are saying in this lawsuit that you were
16 not allowed to work at Rikers because of your injury. Is that
17 correct?

18 MR. SANDOZ: Yeah.

19 THE COURT: Did you apply for a job?

20 MR. SANDOZ: No, no, I apply for --
21 for [indiscernible] they give me job, but I don't apply for
22 job. I know -- I see [indiscernible] know. I got -- I can't
23 speak too much. That's what happened. I can't explain that
24 they --

25 THE COURT: Okay.

1 MR. SANDOZ: -- they [indiscernible].

2 THE COURT: You're doing a pretty good job. Did
3 anybody tell you you cannot work?

4 MR. SANDOZ: No, nobody told me that.

5 THE COURT: Okay. Did anybody turn you down when you
6 applied?

7 MR. SANDOZ: No.

8 THE COURT: Okay. So why do you think you can't work
9 because of the injury?

10 MR. SANDOZ: I laid down [indiscernible] for six
11 months like I can't do nothing for six months.

12 THE COURT: Okay. So you think you can't work. It's
13 not that Rikers told you, no, you can't work. It's your
14 choice?

15 MR. SANDOZ: Yeah.

16 THE COURT: Is that right?

17 MR. SANDOZ: Yeah, they -- they [indiscernible] told
18 me he no work for -- for [indiscernible] months but he told me
19 that he told me, "You can't do nothing right now, but you
20 got -- you got -- you [indiscernible] like that."

21 THE COURT: Who told you that?

22 MR. SANDOZ: The doctor told me that.

23 THE COURT: The doctor said, don't work for four
24 months?

25 MR. SANDOZ: Yeah.

1 THE COURT: Okay. And so did you ever try to work
2 and they said no?

3 MR. SANDOZ: Yeah. I no work for seven months.

4 THE COURT: Okay. All right. Thank you . That's
5 helpful.

6 So, Ms. Bonillas, I think I'm going to direct that he
7 provide whatever grievance he's filed. It sounds like he has
8 access to that, but the other categories I think you're not
9 going to get any more documents.

10 MS. BONILLAS: I understand. Thank you, Your Honor.

11 THE COURT: Okay.

12 MS. BONILLAS: If I may I just have one question.
13 Currently on the schedule Mr. Sandoz and I have a scheduled
14 telephone conference, I believe, with Judge Broderick at 11
15 a.m., but it's a post-discovery conference. I don't know if
16 that's something that is going to be adjourned or if we should
17 assume that that's still going forward.

18 THE COURT: Is that on May 3rd?

19 MS. BONILLAS: It is, yes.

20 THE COURT: I would assume it's still going forward,
21 but I can speak with Judge Broderick and he can issue an order
22 if it's not.

23 MS. BONILLAS: Okay.

24 THE COURT: But it sounds like if anyone is going to
25 be filing any motions, that's the time to discuss that.

1 MS. BONILLAS: Okay.

2 THE COURT: Now let me ask one final question before
3 I let everybody go. Is the City interested in trying to settle
4 this case?

5 MS. BONILLAS: Currently we have taken a no-pay [ph.]
6 position on this case.

7 THE COURT: Okay. And that will be your view through
8 summary judgment?

9 MS. BONILLAS: I believe so. Yes, Your Honor.

10 THE COURT: Okay. If that changes I'm happy to have
11 a telephone settlement conference and to see if we can find a
12 way to settle this case.

13 MS. BONILLAS: Okay. Thank you, Your Honor.

14 THE COURT: Okay. Okay. Mr. Sandoz, do you have any
15 questions for me?

16 MR. SANDOZ: No.

17 THE COURT: Okay. So you'll get my order. It's
18 going to tell you to turn over this grievance document, so
19 start looking for it.

20 MR. SANDOZ: All right. Right, thank you.

21 THE COURT: Okay.

22 MR. SANDOZ: All right. Thank you.

23 THE COURT: All right. Mr. Sandoz.

24 MR. SANDOZ: Yeah.

25 THE COURT: I just asked the City if they want to

1 settle this case and they said no. But between you and me --

2 MR. SANDOZ: Yeah.

3 THE COURT: -- you should think about whether there
4 is a settlement amount you would accept to resolve this case.
5 I think if you are reasonable the City would consider a
6 settlement number from you. Okay?

7 MR. SANDOZ: Yeah.

8 THE COURT: You know, sometimes the City will settle
9 these cases for maybe a few hundred dollars, sometime maybe
10 even a few thousand dollars. And so if you think that you
11 would be willing to settle for a number like that, it makes
12 sense to tell the lawyer.

13 MR. SANDOZ: All right.

14 THE COURT: Okay?

15 MR. SANDOZ: All right.

16 THE COURT: Have you thought about that yet?

17 MR. SANDOZ: Nah.

18 THE COURT: Okay.

19 MR. SANDOZ: I can't understand too much English.
20 That's what happens. I mean, I understand a little bit, but
21 not too much.

22 THE COURT: Okay. I understand. Hopefully you get
23 the idea of what I'm saying, that if you would take a couple
24 hundred dollars or maybe a couple thousand dollars, one or
25 \$2,000 it's worth it to ask the City to see whether they would

1 settle your case.

2 MR. SANDOZ: All right. I [indiscernible] I can't
3 understood too much.

4 THE COURT: I'm sorry, what did you say?

5 MR. SANDOZ: I need interpreter.

6 THE COURT: Interpreter.

7 MR. SANDOZ: Yeah.

8 THE COURT: Okay. Okay. Well, Ms. Bonillas, why
9 don't you speak with your clients and see whether or not a
10 settlement conference makes sense.

11 MS. BONILLAS: Yes, Your Honor.

12 THE COURT: And then we'll see if we can get an
13 interpreter for that purpose.

14 MS. BONILLAS: Yes, Your Honor. I think maybe to
15 assist Mr. Sandoz I can request a copy of a transcript of this
16 telephone conference and if he's having -- if he's receiving
17 assistance with the law clerk in the law library maybe that
18 person can also assist him in making a demand for the City to
19 consider.

20 THE COURT: Terrific. Please do that. Just contact
21 my deputy so we can get that done.

22 MS. BONILLAS: Okay.

23 THE COURT: Great. Okay. Thank you everybody.

24 MS. BONILLAS: Thank you.

25 MR. SANDOZ: All right. Thank you.

1 I certify that the foregoing is a court transcript
2 from an electronic sound recording of the proceedings in the
3 above-entitled matter.

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5 _____
6 Ruth Ann Hager, C.E.T.**D-641

7 Dated: June 11, 2019
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